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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAVIACOM INTERNATIONAL INC.,
COMEDY PARTNERS, COUNTRY
MUSIC TELEVISION, INC.,
PARAMOUNT PICTURES
CORPORATION, and BLACK
ENTERTAINMENT TELEVISION LLC,

Plaintiffs,

v.

YOUTUBE, INC., YOUTUBE, LLC, and
GOOGLE INC.,

Defendants.

Southern District of New York

Case No. 1:07-cv-02103 (LLS) and
related case

Case No.. 1:07-CV-03582 (LLS)

RESPONSE OF THIRD-PARTY
BAYTSP.COM, INC. TO YOUTUBE,
INC.'S, YOUTUBE, LLC'S AND GOOGLE,
INC.'S SUBPOENA

1 BayTSP.com, Inc., ("BayTSP"), a non-party to the Southern District of New York cases, Case
 2 No.1:07-cv-02103 (LLS) ("Viacom Case") and related Case No. 1:07-cv-03582 (LLS) ("Football
 3 Association Case") responds to YouTube, Inc.'s, YouTube, LLC's and Google, Inc.'s ("YouTube") Rule
 4 45, Federal Rules of Civil Procedure, Subpoena and Requests for Production as follows:

5 **LOCATION, DEFINITIONS AND INSTRUCTIONS**

6 BayTSP objects to the time, date, place and manner of the production of documents because
 7 they are unduly burdensome on BayTSP. BayTSP will discuss the time, date, place and manner of
 8 production with YouTube and produce properly requested non-privileged documents at a time, date,
 9 place and manner that does not impose undue burden and cost on BayTSP.

10 BayTSP objects to the definition of "You", "Your" and "BayTSP." The definition is overbroad
 11 and even attempts to include entities that do not yet exist. BayTSP will respond for BayTSP only. To
 12 the extent that YouTube seeks information from any entity other than BayTSP, YouTube should seek
 13 that information directly from that entity.

14 BayTSP objects to the lumping together of YouTube, Inc.'s, YouTube, LLC's and Google, Inc.'s
 15 in the requests. BayTSP's responses and objections may be different depending on which entity is
 16 being referred to, rendering the requests inherently vague and ambiguous.

17 BayTSP objects to the lumping together of the two Southern District of New York cases, Case
 18 No. 1:07-cv-02103 (LLS) and related Case No. 1:07-cv-03582 (LLS) in the requests. BayTSP's
 19 responses and objections may be different depending on which case is being referred to, rendering the
 20 requests inherently vague and ambiguous.

21 BayTSP objects to the definition of "Communication," "Concerning" and "Document" as being
 22 overbroad. BayTSP will respond to the requests using the common every day meaning of the words in
 23 the requests.

24 BayTSP objects to the Definitions and the Instructions to the extent that they seek to impose
 25 obligations that exceed the obligations required by the Federal Rules of Civil Procedure, Rule 45.

26 //

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28 //

RESPONSES TO REQUESTS FOR PRODUCTION**REQUEST FOR PRODUCTION NO. 1**

All documents and communications concerning your monitoring, searching or screening of YouTube.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1

BayTSP objects to this request because it is vague and ambiguous. BayTSP does not understand what YouTube means by the phrase "monitoring, searching or screening of YouTube" in the context of this request. BayTSP objects to this request because, as it understands this request, it is overbroad because it includes within its scope documents that are not relevant to any claim or defense in the Viacom Case in that the documents requested are neither admissible nor calculated to lead to the discovery of admissible evidence. BayTSP objects to this request because, as it understands this request, it is overbroad because it includes within its scope documents that are not relevant to any claim or defense in the Football Association Case in that the documents requested are neither admissible nor calculated to lead to the discovery of admissible evidence. BayTSP objects to the request because, as BayTSP understands the request, it is so broad that it sweeps within its scope documents that are covered by the attorney client privilege and work product doctrine, and any other applicable privilege or immunity from discovery recognized by law. BayTSP further objects because, as BayTSP understands the request, it includes within its scope confidential documents and trade secret, commercial and proprietary information of BayTSP and of clients and customers of BayTSP's services unaffiliated with any of the parties to the Viacom or Football Association Cases. Furthermore, as BayTSP understands this request, it is unduly burdensome and oppressive in that the requested documents comprise a huge volume of documents.

REQUEST FOR PRODUCTION NO. 2

All documents and communications concerning the nature, use and development of software or any other means that You use or have used to monitor, search for, identify, or analyze allegedly infringing material and/or to send takedown notices to any individual or entity concerning alleged copyright violations, including but not limited to design specifications, user manuals, training

1 documents, documents discussing the features or limitations of the software, and application
2 prograrunning interfaces (APIs).

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2**

4 BayTSP objects to this request because it is vague and ambiguous. BayTSP does not
5 understand what YouTube means by the term "nature" in the context of this request. BayTSP objects
6 to this request because, as it understands this request, it is overbroad because it includes within its
7 scope documents that are not relevant to any claim or defense in the Viacom Case in that the
8 documents requested are neither admissible nor calculated to lead to the discovery of admissible
9 evidence. BayTSP objects to this request because, as it understands this request, it is overbroad
10 because it includes within its scope documents that are not relevant to any claim or defense in the
11 Football Association Case in that the documents requested are neither admissible nor calculated to lead
12 to the discovery of admissible evidence. BayTSP objects to the request because, as BayTSP
13 understands the request, it so broad that it sweeps within its scope documents that are covered by the
14 attorney client privilege and work product doctrine, and any other applicable privilege or immunity
15 from discovery recognized by law. BayTSP further objects because, as BayTSP understands the
16 request, it includes within its scope documents confidential, trade secret, commercial and proprietary
17 information of BayTSP and of clients and customers of BayTSP's services unaffiliated with any of the
18 parties to the Viacom or Football Association Cases. Furthermore, as BayTSP understands this
19 request, it is unduly burdensome and oppressive in that the requested documents comprise a huge
20 volume of documents.

21 **REQUEST FOR PRODUCTION NO. 3**

22 All documents and communications concerning YouTube, including but not limited to any
23 internal communications concerning YouTube, any communications with third parties concerning
24 YouTube, any takedown notices You have sent to YouTube, any databases containing such notices or
25 statistics, data or analysis of such notices, or any communications between You and YouTube.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3**

27 BayTSP objects to this request because it is vague and ambiguous. BayTSP does not
28 understand what YouTube means by the phrase "statistics, data or analysis of such notices" in the

1 context of this request. BayTSP objects to this request because, as it understands this request, it is
2 overbroad because it includes within its scope documents that are not relevant to any claim or defense
3 in the Viacom Case in that the documents requested are neither admissible nor calculated to lead to the
4 discovery of admissible evidence. BayTSP objects to this request because, as it understands this
5 request, it is overbroad because it includes within its scope documents that are not relevant to any
6 claim or defense in the Football Association Case in that the documents requested are neither
7 admissible nor calculated to lead to the discovery of admissible evidence. BayTSP objects to the
8 request because, as BayTSP understands the request, it so broad that it sweeps within its scope
9 documents that are covered by the attorney client privilege and work product doctrine, and any other
10 applicable privilege or immunity from discovery recognized by law. BayTSP further objects because,
11 as BayTSP understands the request, it includes within its scope confidential documents and trade
12 secret, commercial and proprietary information of clients and customers of BayTSP's services
13 unaffiliated with any of the parties to the Viacom or Football Association Cases, and of BayTSP.
14 Furthermore, as BayTSP understands this request, it is unduly burdensome and oppressive in that the
15 requested documents comprise a huge volume of documents.

16 **REQUEST FOR PRODUCTION NO. 4**

17 All communications concerning YouTube that were sent or received from the email account
18 cannecana@idcats.org.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4**

20 BayTSP does not have any documents responsive to this request in its possession, custody or
21 control.

22 **REQUEST FOR PRODUCTION NO. 5**

23 All documents and communications concerning Your relationship with any third party
24 concerning the monitoring, searching, or screening of www.youtube.com for alleged copyright
25 violations, including but not limited to any service contracts, invoices or agreements.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5**

27 BayTSP objects to this request because it is vague and ambiguous. BayTSP does not
28 understand what YouTube means by the term "relationship" in the context of this request. BayTSP

1 objects to this request because, as it understands this request, it is overbroad because it includes within
2 its scope documents that are not relevant to any claim or defense in the Viacom Case in that the
3 documents requested are neither admissible nor calculated to lead to the discovery of admissible
4 evidence. BayTSP objects to this request because, as it understands this request, it is overbroad
5 because it includes within its scope documents that are not relevant to any claim or defense in the
6 Football Association Case in that the documents requested are neither admissible nor calculated to lead
7 to the discovery of admissible evidence. BayTSP objects to the request because, as BayTSP
8 understands the request, it is so broad that it sweeps within its scope documents that are covered by the
9 attorney client privilege and work product doctrine, and any other applicable privilege or immunity
10 from discovery recognized by law. BayTSP further objects because, as BayTSP understands the
11 request, it includes within its scope confidential documents and trade secret, commercial and
12 proprietary information of BayTSP and of clients and customers of BayTSP's services unaffiliated with
13 any of the parties to the Viacom or Football Association Cases. Furthermore, as BayTSP understands
14 this request, it is unduly burdensome and oppressive in that the requested documents comprise a huge
15 volume of documents.

16 **REQUEST FOR PRODUCTION NO. 6**

17 All documents and communications concerning copyrights allegedly owned by or licensed to
18 Viacom.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6**

20 BayTSP objects to this request because it is vague and ambiguous. BayTSP does not
21 understand what YouTube means by the phrase "copyrights allegedly owned by or licensed to Viacom"
22 in the context of this request. BayTSP objects to this request because, as it understands this request, it
23 is overbroad because it includes within its scope documents that are not relevant to any claim or
24 defense in the Viacom Case in that the documents requested are neither admissible nor calculated to
25 lead to the discovery of admissible evidence. BayTSP objects to this request because, as it understands
26 this request, it is overbroad because it includes within its scope documents that are not relevant to any
27 claim or defense in the Football Association Case in that the documents requested are neither
28 admissible nor calculated to lead to the discovery of admissible evidence. BayTSP objects to the

1 request because, as BayTSP understands the request, it is so broad that it sweeps within its scope
2 documents that are covered by the attorney client privilege and work product doctrine, and any other
3 applicable privilege or immunity from discovery recognized by law. BayTSP further objects because,
4 as BayTSP understands the request, it includes within its scope confidential documents and trade
5 secret, commercial and proprietary information of BayTSP. Furthermore, as BayTSP understands this
6 request, it is unduly burdensome and oppressive in that the requested documents comprise a huge
7 volume of documents.

8 **REQUEST FOR PRODUCTION NO. 7**

9 All documents and communications concerning any training of your employees or agents to
10 monitor, search or screen any website that hosts user-generated content, including but not limited to
11 www.youtube.com.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7**

13 BayTSP objects to this request because it is vague and ambiguous. BayTSP does not
14 understand what YouTube means by the phrase "monitor, search or screen any website that hosts user-
15 generated content" in the context of this request. BayTSP objects to this request because, as it
16 understands this request, it is overbroad because it includes within its scope documents that are not
17 relevant to any claim or defense in the Viacom Case in that the documents requested are neither
18 admissible nor calculated to lead to the discovery of admissible evidence. BayTSP objects to this
19 request because, as it understands this request, it is overbroad because it includes within its scope
20 documents that are not relevant to any claim or defense in the Football Association Case in that the
21 documents requested are neither admissible nor calculated to lead to the discovery of admissible
22 evidence. BayTSP objects to the request because, as BayTSP understands the request, it is so broad that
23 it sweeps within its scope documents that are covered by the attorney client privilege and work product
24 doctrine, and any other applicable privilege or immunity from discovery recognized by law. BayTSP
25 further objects because, as BayTSP understands the request, it includes within its scope confidential
26 documents and trade secret, commercial and proprietary information of BayTSP and of clients and
27 customers of BayTSP's services unaffiliated with any of the parties to the Viacom or Football
28 Association Cases.

REQUEST FOR PRODUCTION NO. 8

All documents and communications concerning any comparisons or statistics regarding how any website, network or other location, including but not limited to www.youtube.com responded to Takedown notices sent by you, including but not limited to comparisons or statistics regarding response time, number of notices received, and performance relative to other websites, networks or other locations.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8

BayTSP objects to this request because it is vague and ambiguous. BayTSP does not understand what YouTube means by the phrase "comparisons or statistics regarding how any website, network or other location, including but not limited to www.youtube.com responded to Takedown notices sent by you" in the context of this request. BayTSP objects to this request because, as it understands this request, it is overbroad because it includes within its scope documents that are not relevant to any claim or defense in the Viacom Case in that the documents requested are neither admissible nor calculated to lead to the discovery of admissible evidence. BayTSP objects to this request because, as it understands this request, it is overbroad because it includes within its scope documents that are not relevant to any claim or defense in the Football Association Case in that the documents requested are neither admissible nor calculated to lead to the discovery of admissible evidence. BayTSP objects to the request because, as BayTSP understands the request, it is so broad that it sweeps within its scope documents that are covered by the attorney client privilege and work product doctrine, and any other applicable privilege or immunity from discovery recognized by law. BayTSP further objects because, as BayTSP understands the request, it includes within its scope confidential documents and trade secret, commercial and proprietary information of clients and customers of BayTSP's services unaffiliated with any of the parties to the Viacom or Football Association Cases, and of BayTSP.

REQUEST FOR PRODUCTION NO. 9

All documents and communications concerning the SDNY Actions, including any and all communications with any party to the SDNY Actions or attorney representing a party to the SDNY Actions.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9

BayTSP objects to the request because, as BayTSP understands the request, it is so broad that it sweeps within its scope documents that are covered by the attorney client privilege and work product doctrine, and any other applicable privilege or immunity from discovery recognized by law. BayTSP further objects because, as BayTSP understands the request, it includes within its scope confidential documents and trade secret, commercial and proprietary information of BayTSP.

REQUEST FOR PRODUCTION NO. 10

All documents and communications concerning the effectiveness of Your software or any other means You use or have used to monitor, search for, distinguish, identify, or analyze allegedly infringing material.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10

BayTSP objects to this request because it is vague and ambiguous. BayTSP does not understand what YouTube means by the phrases "effectiveness of Your software" and "monitor, search for, distinguish, identify, or analyze allegedly infringing material" in the context of this request. BayTSP objects to this request because, as it understands this request, it is overbroad because it includes within its scope documents that are not relevant to any claim or defense in the Viacom Case in that the documents requested are neither admissible nor calculated to lead to the discovery of admissible evidence. BayTSP objects to this request because, as it understands this request, it is overbroad because it includes within its scope documents that are not relevant to any claim or defense in the Football Association Case in that the documents requested are neither admissible nor calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 11

Documents sufficient to identify any civil action in which You have given testimony in any form, including but not limited to declarations, depositions, and trial testimony.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11

As BayTSP understands this request, BayTSP objects to this request because it is overbroad because it includes within its scope documents that are not relevant to any claim or defense in the Viacom Case in that the documents requested are neither admissible nor calculated to lead to the

1 discovery of admissible evidence. BayTSP objects to this request because it is overbroad because it
2 includes within its scope documents that are not relevant to any claim or defense in the Football
3 Association Case in that the documents requested are neither admissible nor calculated to lead to the
4 discovery of admissible evidence. BayTSP further objects because it includes within its scope
5 confidential documents and trade secret, commercial and proprietary information of BayTSP and of
6 clients and customers of BayTSP's services unaffiliated with any of the parties to the Viacom or
7 Football Association Cases.

8 **REQUEST FOR PRODUCTION NO. 12**

9 Documents sufficient to identify all individuals and entities who have retained you to monitor,
10 search or screen www.youtube.com.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12**

12 As BayTSP understands this request, BayTSP objects to this request because it is overbroad
13 because it includes within its scope documents that are not relevant to any claim or defense in the
14 Viacom Case in that the documents requested are neither admissible nor calculated to lead to the
15 discovery of admissible evidence. As BayTSP understands this request, BayTSP objects to this request
16 because it is overbroad because it includes within its scope documents that are not relevant to any
17 claim or defense in the Football Association Case in that the documents requested are neither
18 admissible nor calculated to lead to the discovery of admissible evidence. BayTSP objects to the
19 request because, as BayTSP understands the request, it so broad that it sweeps within its scope
20 documents that are covered by the attorney client privilege and work product doctrine, and any other
21 applicable privilege or immunity from discovery recognized by law. BayTSP further objects because,
22 as BayTSP understands the request, it includes within its scope confidential documents and trade
23 secret, commercial and proprietary information of clients and customers of BayTSP's services
24 unaffiliated with any of the parties to the Viacom or Football Association Cases, and of BayTSP.

25 **REQUEST FOR PRODUCTION NO. 13**

26 Documents and communications concerning Your or Your clients use of YouTube, including
27 but not limited to: (a) documents sufficient to show any occasions on which You or Your clients have
28 uploaded videos to YouTube; (b) documents sufficient to show any instances of which You are aware

1 of where Your clients uploaded videos onto YouTube; (c) all documents and communication
 2 concerning any occasions on which You viewed videos on YouTube, shared videos found on YouTube
 3 with others, or used the embed HTML code on YouTube to embed videos found on YouTube onto any
 4 website; and (d) all documents sufficient to identify YouTube user accounts used by You at any time.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13**

6 BayTSP objects to this request because it is vague and ambiguous. BayTSP does not
 7 understand what YouTube means by the phrase "Your or Your clients use of YouTube" and the term
 8 "shared" in the context of this request. BayTSP objects to this request because, as it understands this
 9 request, it is overbroad because it includes within its scope documents that are not relevant to any
 10 claim or defense in the Viacom Case in that the documents requested are neither admissible nor
 11 calculated to lead to the discovery of admissible evidence. BayTSP objects to this request because, as
 12 it understands this request, it is overbroad because it includes within its scope documents that are not
 13 relevant to any claim or defense in the Football Association Case in that the documents requested are
 14 neither admissible nor calculated to lead to the discovery of admissible evidence. BayTSP further
 15 objects because, as BayTSP understands the request, it includes within its scope confidential
 16 documents and trade secret, commercial and proprietary information of BayTSP.

17
 18 Dated: 11/7/07

AKIN GUMP STRAUSS HAUER & FELD LLP

19
 20 By 

21 STEVEN D. HEMMINGER
 22 Attorneys for BayTSP.com, Inc.
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA CLARA

I am employed in the County of Santa Clara, State of California. I am over the age of 18 and not a party to the within action; my business address is: Akin Gump Strauss Hauer & Feld LLP, 2 Palo Alto Square, 3000 El Camino Real, Suite 400, Palo Alto, CA 94306. On November 7, 2007 I served the foregoing document(s) described as: OBJECTIONS AND RESPONSES OF THIRD-PARTY BAYTSP.COM, INC. TO DEFENDANTS' REQUESTS FOR PRODUCTION on the interested party(ies) below, using the following means:

James J. Hartnett, IV
 Faegre & Benson
 2200 Wells Fargo Center
 90 South Seventh Street
 Minneapolis, MN 55402-3901

☒ BY UNITED STATES MAIL I enclosed the documents in a sealed envelope or package addressed to the respective address(es) of the party(ies) stated above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid at Palo Alto, California.

☐ BY OVERNIGHT DELIVERY I enclosed the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the respective address(es) of the party(ies) stated above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

☐ BY MESSENGER SERVICE I served the documents by placing them in an envelope or package addressed to the respective address(es) of the party(ies) stated above and providing them to a professional messenger service for service.

☐ BY FAX Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the respective fax number(s) of the party(ies) as stated above. No error was reported by the fax machine that I used. A copy of the record of the fax transmission(s), which I printed out, is attached.

☐ BY ELECTRONIC MAIL OR ELECTRONIC TRANSMISSION. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent to the respective e-mail address(es) of the party(ies) as stated above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☒ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on November 7, 2007 at Palo Alto, California.

Julie Rowinski
 [Print Name of Person Executing Proof]

Julie Rowinski
 [Signature]